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July 9, 2021

BY ELECTRONIC MAIL

The Honorable Annie Petsonk
Principal Deputy Assistant Secretary for Aviation and International Affairs
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington D.C. 20590

Re: Complaint of Spirit Airlines for Investigation of the American Airlines and JetBlue Airways Joint Venture Agreements, Docket DOT-OST-2021-0001

Dear Principal Deputy Assistant Secretary Petsonk:

The National Air Carrier Association (NACA) appreciates the opportunity to submit this consolidated reply to the responses of American Airlines and JetBlue Airways to the complaint submitted by Spirit Airlines to request an on-the-record investigation under 49 U.S.C. § 41712(a) of the codeshare and related joint-venture agreements between American and JetBlue to determine if implementation of these agreements, known as the Northeast Alliance Expansion (NEA), would constitute an anticompetitive unfair method of competition that must be prohibited consistent with the public interest. NACA represents 18 Part 121 air carriers,¹ including the nation's four ultra-low cost carriers (ULCCs) – Allegiant Air, Frontier Airlines, Spirit, and Sun Country Airlines – and strongly supports the consolidated reply of Spirit submitted on July 2, 2021.

NACA agrees with Spirit that the responses of American and JetBlue failed to demonstrate any prejudice or authority that supports dismissal of Spirit's complaint. American, the largest U.S. airline, and JetBlue, the largest New York/Boston airline, currently control approximately 50 percent of Federal Aviation Administration (FAA) slots at airports where they are operating codeshare flights under the NEA² and 46 percent of the gates at Boston. Under the NEA, American and JetBlue are collaborating in ways just short of a merger, while other airline competitors - including ULCCs - are blocked from entry or expansion at these restricted airports.

As a result of this anticompetitive agreement, consumers in these markets will continue to pay some of the highest fares in the nation, as noted by Travelers United and the American Antitrust Institute, among the diverse group of aviation stakeholders including network airlines (United Airlines), low-cost airlines (Southwest Airlines), airports (Airports Council International), and unions (Service Employees International Union) who have submitted comments in support of

¹ NACA Members include Allegiant Air, AmeriJet, Air Transport International, Atlas Air Worldwide, Avelo Airlines, Everts Air Cargo, Frontier Airlines, iAero Airways, Kalitta Air, Lynden Air Cargo, Miami Air International, Northern Air Cargo, Omni Air International, Spirit Airlines, Sun Country Airlines, USA Jet Airlines, Western Global Airlines, and World Atlantic Airlines.

² These airports include Boston Logan International Airport (BOS), John F. Kennedy International Airport (JFK), LaGuardia Airport (LGA), Newark Liberty International Airport (EWR), and Ronald Reagan Washington National Airport (DCA).



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Spirit's request for a hearing under § 41712. By holding an on-the-record hearing now - before American and JetBlue deepen their consolidation and market power at these key entry-blocked airports - the Department can send a strong message to consumers and every sector of the air travel industry that protecting the public interest by investigating and preventing such unfair methods of competition and promoting low-fare competition will be top policy priorities for the Biden administration.

Given the significant competitive implications of the NEA, NACA respectfully requests that the Department grant Spirit's request to initiate an investigation pursuant to § 41712 to determine whether possible consumer benefits do or do not outweigh potential consumer harm, as the Department has done with every major alliance in recent years.

Thank you for your consideration.

Very Respectfully,

A handwritten signature in blue ink, appearing to read "George Novak". The signature is fluid and cursive, with a small star or asterisk at the end.

George Novak
President and CEO
National Air Carrier Association